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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,236	07/17/2006	Xavier Prignon	505621	1824

53609 7590 08/21/2008
REINHART BOERNER VAN DEUREN P.C.
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ROCKFORD, IL 61107

EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT	PAPER NUMBER
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3653

NOTIFICATION DATE	DELIVERY MODE
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08/21/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhartlaw.com

Office Action Summary	Application No. 10/586,236	Applicant(s) PRIGNON, XAVIER	
	Examiner Terrell H. Matthews	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/17/2006, 11/03/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

FINAL REJECTION

Applicant's arguments filed 5/06/2008 have been fully considered but they are not persuasive for reasons as detailed below.

The prior rejections are maintained or modified as follows:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanke (US 4,869,786) in view of Weit (US-5232096).

Hanke discloses a "Air Classifying Process And Air Classifier" See at least Figs. 1-2 and respective portions of the specification. Hanke (Fig. 2) teaches a dynamic air classifier for the separation of granular and powdery materials into fractions of different grain sizes comprising a rotary cage (9), wherein said classifier also comprises a recovery chamber (2) for fine materials with a outlet bottom (near duct 20), said chamber being defined by a casing (outer shell), and mobile deflectors (35), wherein said recovery chamber is coaxially arranged in the protrusion of the rotary cage said recovery chamber comprises openings in the casing allowing the passage of the centrifuged

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material towards ducts for collecting the material located outside the chamber (Fig. 2, see openings in cone-shaped shell leading to ducts near 23). Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114.

Here, the device cited above is certainly capable of using the vortex created by the rotary cage for cycloning said material and extracting air through the bottom duct (near 20). Further, the claimed method is anticipated in the normal operation of the device cited above (col. 5, 6). Hanke does not disclose wherein the recovery chamber is adapted to use the vortex created by the rotary cage for cycloning said material. Weit discloses a "Material Dispersion Apparatus". See Figs. 1-4 and respective portions of the specification. Furthermore, Weit discloses a rotary cage adapted to create a vortex when subject to fluid flow; a recovery chamber adapted to use the vortex created by the rotary cage and wherein the rotary chamber comprises openings allowing passage of the material towards ducts for collecting the material outside the chamber (See at least Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Hanke to include the teachings of Weit wherein the recovery chamber was open to use the vortex created by the rotary chamber so that a more efficient and thorough separation of the materials could occur during operation, through the use of the vortex aiding in separation within the recovery chamber.

Conclusion

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Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicants' amendment necessitated any new grounds of rejection present in this Office action.

ACCORDINGLY, THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick H. Mackey/
Supervisory Patent Examiner, Art
Unit 3653

THM